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VIA ECF

The Honorable Kimba M. Wood
United States District Court for the Southern District of New York
500 Pearl Street
New York, NY 10007

Re: **de Lacour, et al. v. Colgate-Palmolive Co., et al., Case No. 1:16-cv-08364-KMW**

Dear Judge Wood:

MEMO ENDORSED

I write on behalf of Defendants Colgate-Palmolive Co. ("Colgate"), and Tom's of Maine Inc. ("Tom's," and together with Colgate, "Defendants") in the above-referenced action. Defendants respectfully request leave to file under seal portions of the following documents and exhibits:

- Reply Memorandum of Law in Further Support of Tom's Motion for Summary Judgment
- Tom's Response to Plaintiffs' Statement of Additional Material Facts Pursuant to Local Rule 56.1
- Exhibit 3 to the Declaration of Hannah Y. Chanoine in Further Support of Tom's Motion for Summary Judgment
- Colgate's Response to Plaintiffs' Statement of Additional Material Facts Pursuant to Local Rule 56.1
- Exhibit 3 to the Declaration of Hannah Y. Chanoine in Further Support of Colgate's Motion for Summary Judgment

Defendants request leave to file these documents and exhibits under seal because they contain proprietary business information such as confidential sales data, financial data, and competitively sensitive market and consumer research. Defendants have conferred with Plaintiffs regarding this request to seal, and Plaintiffs have not objected to this request.

Courts within the Second Circuit routinely allow for the sealing of such information. See, e.g., *Playtex Prods., LLC v. Munchkin, Inc.*, 2016 WL 1276450, at *11 (S.D.N.Y. 2016) (granting request to seal documents concerning sales and revenue information, analytical testing, and market research); *Bayer Shera Pharma AG v. Sandoz, Inc.*, 2009 WL 10699031, at *1 (S.D.N.Y. 2009) (granting motion to seal documents containing "confidential financial and sales data"). Further, this Court has previously sealed similar confidential sales data, financial data, and competitively sensitive market and consumer research in this action. See, e.g., Dkt. No. 61 (order approving request to seal documents that "contain proprietary business information such as confidential sales and financial data, as well as market and consumer research"); Dkt. No. 76



(same); Dkt. No. 113 (granting request to seal portions of documents containing proprietary business information and market and consumer research); Dkt. No. 224 (same).

In accordance with Rule 5(B) of the Court's Individual Rules, Defendants will (a) publicly file the listed documents and exhibits with the proposed redactions, and (b) file under seal a copy of the listed documents and exhibits with the proposed redactions highlighted via the ECF System.

Thank you for your consideration.

Respectfully submitted,

/s/ Hannah Y. Chanoine

Hannah Y. Chanoine

Defendants' request to seal certain portions of documents and exhibits, identified above, and to which Plaintiffs do not object, is hereby GRANTED.

Upon review of the proposed redactions (*see* ECF Nos. 284, 286, 288, 291, and 293), the Court finds that they are narrowly tailored to protect proprietary business information. The information Defendants seek to redact is similar in nature to the information the Court previously determined warranted sealing. (*See* ECF Nos. 224, 259, 278.)

Accordingly, the Court concludes that the sensitivity of the information identified above outweighs the presumption of access. *See Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110 (2d Cir. 2006).

Consistent with the Court's prior determinations, the Court may reconsider its sealing determinations at any time, on notice to the parties, with respect to any and all sealed or redacted portions of Defendants' materials.

SO ORDERED.

**Dated: New York, New York
December 23, 2022**

/s/ Kimba M. Wood
KIMBA M. WOOD
United States District Judge